

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

**IN THE MATTER OF APPLICATION )  
FOR TEMPORARY CHANGE NO. )  
TC-34-45 IN THE NAME OF RICHARD )  
OR JACQUELINE REYNOLDS )**

**ORDER REVOKING  
TEMPORARY CHANGE  
APPROVAL**

**Findings of Fact**

On May 28, 2004, Richard Reynolds and Jacqueline Reynolds filed an application for temporary change of a water right with the Idaho Department of Water Resources (IDWR). IDWR was authorized to consider the temporary application for change as a result of an emergency drought declaration signed by the Director of IDWR and approved by the Governor of the State of Idaho on April 14, 2004.

The application for temporary change was assigned no. TC-34-45. The application sought to change the place of use for a portion of water right no. 34-7028A. Water right no. 34-7028A was decreed as a partial decree in the Snake River Basin Adjudication (SRBA), and authorizes the following:

|                       |   |
|-----------------------|---|
| Source:               | Ground water  |
| Purpose of use:       | Irrigation  |
| Flow rate:            | 4.3 cubic feet per second (cfs)                     |
| Point of diversion:   | NESESW, Section 34, Township 5 North, Range 26 East |
| Point of injection:   | NWNWNW, Section 26, Township 4 North, Range 26 East |
| Point of rediversion: | NWNWNW, Section 26, Township 4 North, Range 26 East |
| Place of use:         | Township 3 North, Range 27 East, Section 10         |

|      |                     |
|------|---------------------|
|      | <u><b>Acres</b></u> |
| SWNE | 39                  |
| NENW | 29                  |
| NWNW | 38                  |
| SWNW | 39                  |
| SEnw | 40                  |
| NWSE | 39                  |

**224 acres**

Conditions of water right no. 34-7028A limit the use of water and the number of acres that may be irrigated in combination with ground water right nos. 34-2480A and 34-7234, and surface water right nos. 34-196D, 34-10100, 34-2491B, 34-195C. In particular, no more than the 224 acres listed above can be irrigated by water diverted under water right number ground water

right no. 34-2480A and 34-7028A. In addition, no more than 6.60 cfs and an annual diversion volume of 1071 acre-feet of water can be diverted under water right nos. 34-2080A, 34-7028A, and 34-7234.

Application no. TC-34-45 proposes to change 95 acres of land irrigated with 2.5 cfs of water right no. 34-7028A. The application proposes that the place of use for the portion of the water right be changed to the following lands:

Place of Use: Township 4 North, Range 26 East, Section 15

|          | <u>Acres</u> |
|----------|--------------|
| NENE     | 10           |
| NENW     | 35           |
| NESW     | 38           |
| SESE     | 12           |
| <hr/>    |              |
| 95 acres |              |

The application for temporary change locates the point of diversion in the NWSESE, Section 4, Township 5 North, Range 26 East. Typed under the heading "Local name for diversion" is the word "Eastside." Although not described by the application, it implies that water will be diverted from ground water at the decreed point of diversion, will be delivered to the Big Lost River at the decreed point of injection, but will be rediverted from the Big Lost River at the heading for the Eastside Canal, a different location than the rediversion described by the decreed right.

Finally, the application for temporary change stated and associated documents stated that the portion of the water right sought to be transferred was used for field preparation at the original place of use, will be needed later at the original place of use to irrigate a crop of potatoes, but is not presently needed. The purpose of the temporary change application is to move the portion of the water right to another place of use from May 27, 2004 to June 21, 2004. The application for temporary change implies that the approval will end on June 21, 2004, and the portion of water right no. 34-7028A will revert back to the original place of use.

Application for Temporary Change no. TC-34-45 was approved on June 2, 2004.

#### **Conclusions of Law**

Idaho Code § 42-222A states that "temporary changes may not be approved . . . to allow expansion of the use of water under existing water rights."

The applicant did not provide any information to show that 95 acres of the acreage limitations for irrigation decreed for this water right and other water rights would not be irrigated.

Application no. TC-34-45 states that, after the 95 acres owned by Richard and Jacqueline Reynolds is irrigated, the water right will be moved back to irrigate a potato crop at the original place of use. This is an expansion of the water right.

Application for temporary change no. TC-34-45 should not have been approved.

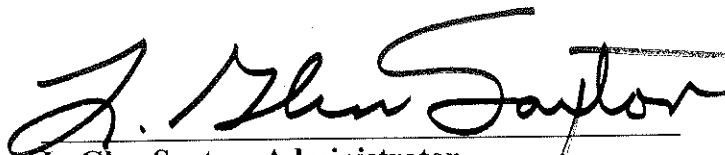
Application for temporary change no. TC-34-45 should be revoked.

**Order**

IT IS HEREBY ORDERED that Temporary Change no. TC-34-45 in the name of Richard Reynolds or Jacqueline Reynolds is **REVOKED**.

IT IS FURTHER ORDERED that irrigation of the 95 acres owned by Richard Reynolds and Jacqueline Reynolds with any portion of water right 34-7028A is **PROHIBITED**.

Dated this 4<sup>th</sup> day of June, 2004.

  
L. Glen Saxton, Administrator  
Water Management Division

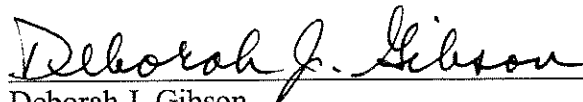
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 4<sup>th</sup> day of June, 2004, the above and foregoing document was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

RICHARD REYNOLDS  
JACQUELINE REYNOLDS  
RT 1 BOX 73  
MOORE ID 83255

DARRELL E MC DONALD  
2310 W US HWY 93  
PO BOX 102  
ARCO ID 83213

IDWR - EASTERN REGION  
900 N SKYLINE DR STE A  
IDAHO FALLS ID 83402-1718

A handwritten signature in cursive script, reading "Deborah J. Gibson", is written over a horizontal line.

Deborah J. Gibson  
Administrative Assistant  
Water Allocation Bureau